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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/581,602	08/18/2000	Manabu Oumi	S004-4005(PC)	9810
40627	7590	04/10/2008		
ADAMS & WILKS 17 BATTERY PLACE SUITE 1231 NEW YORK, NY 10004			EXAMINER PSITOS, ARISTOTELIS M	
			ART UNIT 2627	PAPER NUMBER
			MAIL DATE 04/10/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No. 09/581,602	Applicant(s) OUMI ET AL.
Examiner Aristotelis M. Psitos	Art Unit 2627

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 24 March 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: 39, 43, 47 and 51.
Claim(s) rejected: 36-39, 41-43, 45-47 and 49-68.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see note below.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☒ Other: drawings: see note below.

/Aristotelis M Psitos/
Primary Examiner, Art Unit 2627

continuation of note 7 above: Amendments are not entered in part. The newly introduced limitations focusing upon the signal processing circuit as defined in the ultimate paragraph of claim 36, 41 45, 49 introduce limitations not previously presented. Furthermore, the newly amended dependent claims 39,43, 47,51,53,54,55,57,58,59,61,62,63,65,66 & 67 also add new limitations not previously presented. These limitations alter the scope of the claims previously presented and inherently require both a new search and more than a cursory review of the art and the position(s) presented in the previous OA. Under present USPTO practice such are not performed at this stage. The examiner strongly recommends the filing of a RCE with such amendments to further a) define the invention, b) ensure proper scope of the claimed invention.

continuation of note 11 above. The rejection(s) under 35 USC 112 parag. one would be overcome by the appropriate amendments as presented, but not entered. With respect to claim 36 - (amendment to wit ---- and extending in different directions from one another ----) although correcting for the 112 problem, renders this claim and claim 41 as patentable indistinguishable - i.e., duplicative claimed subject matter with no patentable distinction therebetween. Further consideration of such would be required as well as further argument(s) thereto. Again, such is not performed at this stage of the prosecution.

With respect to the presented arguments against the rejection(s), those arguments drawn to limitations not entered are not rebutted - such limitations are not required by the claims. Although such limitations do define over the art.

With respect to the "teaching" away of the combined references, the examiner is not convinced. Again, the "overlapping" of the data marks is considered taught by the secondary reference. Such overlapping permits an increase in data density by permitting more than 6 basic data, i.e., data No. 1,-4, 15 and 16. The additional data - Nos. 5-14 - are the result of the "overlapping" data. Hence the density is increased. That additional elements are required for this system is not detrimental to the overall combination for the reason(s) stated.

Continuation of note 13. The examiner maintains the drawing objection(s) - note the examiner's response as found starting on page 2 and continuing to page 3 of the previous OA. Again, such diverse claimed limitations are NOT FOUND in the newly submitted/amended drawings. The examiner again recommends a legend in these figures for correcting such deficiencies.